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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,224	11/21/2000	Darryl Black	102689-66/00-U0042	2978
21125	7590	03/10/2005	EXAMINER	
NUTTER MCCLENNEN & FISH LLP WORLD TRADE CENTER WEST 155 SEAPORT BOULEVARD BOSTON, MA 02210-2604			STRANGE, AARON N	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,224

Applicant(s)

BLACK ET AL.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Several of the drawings are objected to because they are too large or illegible. However, due to the large number of drawings, the objections will be held in abeyance until all of the claims are in condition for allowance.

Election/Restrictions

2. Newly submitted claims 29-31 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 29-31 are directed to storing threshold expressions in a configuration database and having an application automatically retrieve them, while claims 1-28 are directed to receiving threshold expressions from a user through a user interface and implementing or modifying thresholds in network devices. These inventions are separately usable since one allows information to be automatically retrieved by an application running on a network device while the other allows a user to input settings via a user interface and have them implemented by a network device.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With regard to claim 8, the limitation "receiving a resource selection from a user through a user interface, comprising:", in line 3, renders the claim indefinite. It is unclear if the steps following that limitation are intended to be substeps of receiving a resource selection or independent steps. Based on the limitations of claims 1 and 5, which applicant asserts to have incorporated into claim 8 (Page 7, Lines 22-23 of Applicant's remarks), the steps are independent steps and not part of receiving a resource selection. However, based on the formatting of the claim, it appears Applicant intends to make them substeps of receiving a resource selection.

6. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Response to Arguments

7. Applicant's arguments filed 10/12/2004 have been fully considered but they are not persuasive.

8. With regard to claim 1,8, 11-13 and 22, and Applicant's assertion that Cisco fails to teach "implementing the threshold expression within a network device while the network device is operational", the Examiner respectfully disagrees. The section Applicant cites as alleged evidence that the Cisco system cannot implement or modify the threshold expression while the device is operational is not persuasive.

As Applicant cited, Cisco states that once the threshold manager is started, the threshold manager directory cannot be changed even when a new instance of the threshold manager is launched from within the application to monitor another device. However, the threshold manager directory has nothing to do with implementing or modifying the threshold expression within the network devices. The threshold manager directory is merely the directory where the configuration files for the software are stored on the local computer. Cisco discloses that the threshold manager is started with a default directory unless the user overrides this with a "-p Threshold Manager" argument. All the cited passage means is that the directory where the configuration files are stored must be specified when the application is launched, and may not be changed once the manager is active (Page 2-28). The storage of configuration files is wholly independent from enforcing them to a network device (Page 2-23, Line 7).

Additionally, Cisco specifically discloses that the threshold expressions may be implemented/modified while the device is operational. Page 2-28, Lines 1-5 state "It displays information about the selected policy, and enables you to modify threshold parameters *already in memory or the agent*." (emphasis added). The agent is running on an operational network device, so modifying parameters already in the agent is implementing/modifying parameters while the device is operational.

9. With regard to claim 10, and Applicant's assertion that Cisco fails to specifically recite that an active query notice is used to inform application of changes to threshold expressions, the Examiner agrees that there is no explicit recitation. Cisco discloses that the policies are "enforced" to the agent. The process of enforcing the policies is almost certainly done by active query notice, but even if it were not, the advantages are apparent to one of ordinary skill in the art. An active query notice would ensure that the new thresholds are implemented immediately, which would not occur by requiring the devices to poll the management system or some other type of passive notification. Cisco allows for users to save policies that they do not wish to implement immediately (Page 2-23), so it is clear that users of the system who enforce a policy want it to be implemented immediately.

10. With regard to claim 14, and Applicant's assertion that Cisco fails to teach assigning a unique identifier to resources in a network device, the Examiner respectfully disagrees. Applicant asserts that "the MIB variables to which the Examiner refers are

Art Unit: 2153

standardized definitions for selected attributes of the network system, and not unique resources of a network device.” However, the Cisco reference clearly shows that the MIB variables are manually entered by the user (Page 2-18, Lines 5-7), and the user may use any name they choose. Therefore, the variables are clearly not “standardized definitions” as Applicant asserts. Furthermore, since the policy is saved using the chosen name along with a “.thd” extension, it must be unique or it will overwrite the policy that had been previously saved with that name.

11. In response to Applicant's argument regarding claim 13, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., detection of a threshold event corresponding to one threshold expression can activate a separate threshold expression) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 13 merely recites that a plurality of cascaded threshold expressions are implemented in the device. As discussed in the first Office action, Col 6, Lines 14-26 of Ordanic discloses teaches the use of cascaded threshold expressions to monitor the severity of an event by providing a warning level and critical level. Since the critical level is higher than the warning level and is not necessarily crossed when the warning threshold is crossed, they are cascaded threshold expressions and meet the claim limitations.

12. Applicant's arguments regarding all other claims which depend from the above claims are not persuasive for the reasons discussed above, since no further argument was made with regard to those claims.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. The rejections of claims 1-7 and 11-21 under 35 USC 102(b) or 35 USC 103(a), presented in the Office action mailed 4/8/04, are maintained since those claims were not amended and Applicant's arguments were not persuasive.

15. With regard to claim 8, Cisco discloses a method of managing a telecommunications network, comprising: receiving a resource selection from a user through a user interface (select the policy to configure)(Fig 2-4), comprising: displaying a threshold dialog box to the user (create threshold policy box) (Fig 2-5), receiving a threshold expression from the user through the threshold dialog box (Page, 2-18, Fig 2-5), implementing the threshold expression within a network device (enforce to the agent) while the network device is operational (Page 2-17, Lines 7-14), wherein

Art Unit: 2153

implementing the threshold expression within a network device while the network device is operational comprises: updating thresholding code executing (agent) within the network device with the data written into at least one table (enforce the policy) (Page 2-16, Lines 19-21). Cisco does not specifically disclose writing data from the threshold dialog box into at least one table in a configuration database within the network device. However, since the network device must keep track of the threshold policies that pertain to it, the data from the threshold must be written to a configuration database of some sort, and is therefore inherent in the system disclosed by Cisco.

16. With regard to claim 22, Cisco discloses a method of managing a telecommunications network, comprising: modifying one or more threshold expressions within a network device while the network device is operational (Page 2-28); detecting a threshold event in an application within a network device (threshold crossing) in accordance with said modified threshold expressions, and responding to the threshold event in accordance with an action defined within the thresholding code (generate event) (Page 2-2, Lines 4-5). Cisco does not specifically recite notifying thresholding code of the threshold event. However, this step is inherent since the thresholding code must be notified of the threshold event in order to respond to it.

17. With regard to claim 23, Cisco further discloses that detecting a threshold event in an application within a network device comprises: monitoring a resource attribute continuously (user specified interval); and comparing the resource attribute against a

threshold expression (rising/falling thresholds) provided to the application by the thresholding code (Page 2-12, Lines 10-11).

18. With regard to claim 24, Cisco further discloses that responding to the threshold event in accordance with an action defined within the thresholding code comprises: notifying a network manager of the threshold event (send SNMP trap to a management station) (Page 2-13, Lines 15-22).

19. With regard to claim 25, Cisco further discloses that notifying a network manager of the threshold event comprises: sending a notice to network management system software external to the network (Page 2-13, Lines 15-22).

20. With regard to claim 28, Cisco further discloses that responding to the threshold event in accordance with an action defined within the thresholding code comprises: logging the threshold event (Page 2-13, Lines 15-22).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco Systems, Inc. in view of Microsoft Corporation.

23. With regard to claim 9, while the system disclosed by Cisco shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that writing data from the threshold dialog box into at least one table in a configuration database within the network device comprises: sending the data from the threshold dialog box through a network management system (NMS) client to an NMS server; and writing the data into the at least one table through the NMS server.

Cisco discloses enforcing a policy on a device in order to activate a threshold expression, but remains silent on the specific means of enforcing the policy. Cisco also discloses storing saved policies for later usage (Page 2-22, Line 9 to Page 2-23, Line 6), but fails to disclose where the policies are saved.

Microsoft discloses that SNMP agents can be configured to accept SNMP packets only from specific hosts, increasing security of the devices (Page 1, Lines 22-26). Therefore, it would have been advantageous to send the data to the device and write into the configuration table by sending it to an NMS server first. By communicating through the NMS server, the network administrator can allow settings of network devices to be changed without allowing direct access to the devices. This can help prevent malicious users from damaging the network since security measures can be implemented on the server to help prevent attacks on the network, and the devices can be set up so they will only respond to threshold policies sent by the NMS server.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to write data from the threshold dialog box into at least one table in a configuration database within the network device by sending the data from the threshold dialog box through a network management system (NMS) client to an NMS server; and writing the data into the at least one table through the NMS server. This would allow the devices to be configured so they respond only to requests from the NMS server, increasing security of the network since additional security measures could be implemented on the NMS server to help deter malicious users

24. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco Systems, Inc.

25. With regard to claim 10, while the system disclosed by Cisco shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that updating thresholding code executing within the network device with the data written in at least one table comprises: sending an active query notice to each application including the thresholding code and corresponding to the selected resource.

Cisco discloses that threshold policies are enforced to the agents in order to activate them, but remains silent on the specific process used to enforce the policies (Page 2-16, Lines 19-21). However, it is clear that any existing thresholds currently monitored by the device should be changed in the event that the user enforces a policy. It would be advantageous to send an active query to each application including the

thresholding code and corresponding to the selected resource in order to ensure that the new settings are implemented immediately. By actively notifying the devices, they do not have to periodically check to see if any settings have been changed, and changes are immediately implemented.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to update the thresholding code executing within the network device with the data written into the at least on table by sending an active query notice to each application including the thresholding code and corresponding of the selected resource. This ensures that the threshold settings of a newly enforced policy are immediately implemented in the device, preventing accidental threshold events or missing desired events.

26. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco Systems Inc. in view of Fowler et al. (US 6,714,977).

27. With regard to claims 26 and 27, while the system disclosed by Cisco shows substantial features of the claimed invention (discussed above), it fails to disclose that notifying a network manager of the threshold event comprises: sending an electronic mail message or a page to the network manager.

Fowler et al. disclose a method for monitoring a computer network and sending a Message to the network manager via email or pager when an out-of-limit condition occurs (Col 4, Lines 32-36 and Col 17, Lines 16-28). This is advantageous because the

Art Unit: 2153

network manager does not need to be physically located at a network management station in order to be notified that a threshold has been exceeded. The network manager can be immediately notified via email at any computer with email access or via a pager at any location where the pager can receive a signal. This allows the network manager to immediately respond to serious problems in the network, rather than having to wait until returning to the network management station that receives the message to learn of the problem.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to notify the network manager of a threshold event by sending an electronic mail message and/or a page to the network manager. This allows the network manager to be notified of problems in the network without being physically located at a network management station to receive the notification.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

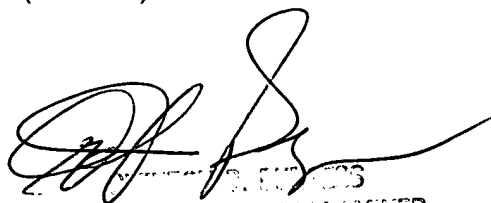
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AS 3/4/2005



3/4/2005
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